



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,364	07/03/2001	Andrew John Schofield	GB920000099US1	1081

7590 10/01/2004
Jerry W. Herndon
IBM Corporation T81/503
PO Box 12195
Research Triangle Park, NC 27709

EXAMINER

FLEURANTIN, JEAN B

ART UNIT	PAPER NUMBER
----------	--------------

2172

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/898,364	Applicant(s) SCHOFIELD, ANDREW JOHN	
	Examiner JEAN B. FLEURANTIN	Art Unit 2172	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.


Claim(s) objected to: NONE.

Claim(s) rejected: 1-8.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: Applicants stated that the present claimed invention patentably distinguishes over Mohan because Mohan is related to a method for detecting partial page write errors that occur during a data transfer. In response, the Examiner disagrees with the precedent argument(s). However, when read and analyzed in the light of the specification, the invention as claimed does not support applicants. Moreover, the claims do not capture the essence of the invention as argued applicants' remark pages 5-8. It is important to note that applicants are interpreting the claims very narrow without considering the broad teachings of the references used in the rejection. In paper no. 9, the Examiner went through the claims phrase by phrase and referred to the prior art column and line number as to where he has drawn the correspondences between applicants' claims phrases and prior art. By failing to address these correspondences, applicants have failed to rebut the Examiner's prima facie case of obviousness uses for a different purpose which does not alter the conclusion that its use in a prior art device would be prima facie obvious from the purpose disclosed in the reference. Furthermore, the Mohan discloses the recited limitations "the method further includes recreating a page from said log upon detection of a partial page" (see col. 5, lines 18-24); and "log manager generates the log records, assembling them in numbered sequences in log buffer" (see col. 6, lines 55-57). Therefore, the argument(s) is/are moot.


SHAHID ALAM
PRIMARY EXAMINER